

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Richard C. and Lisa A. Goetz)	
v.)	CSR-8256-M
Comcast Cable)	
)	
Request for Carriage)	

MEMORANDUM OPINION AND ORDER

Adopted: May 3, 2010

Released: May 4, 2010

By the Senior Deputy Chief, Policy Division, Media Bureau:

I. INTRODUCTION

1. Richard C. and Lisa A. Goetz (“Petitioners”), licensees of low power television station WRTN-LD, Alexandria, Tennessee (“WRTN-LD”),¹ filed the above-captioned complaint seeking mandatory carriage on Comcast Cable’s (“Comcast”) cable system serving the communities of Hartsville, Carthage and Lafayette, Tennessee. An opposition to this complaint was filed on behalf of Comcast to which Petitioners replied. For the reasons discussed below, we grant Petitioners’ complaint.

II. BACKGROUND

2. Both the Communications Act of 1934, as amended, and the Commission’s rules require the carriage of “qualified” low power television (“LPTV”) stations in certain limited circumstances.² An LPTV station that conforms to the rules established for LPTV stations in Part 74 of the Commission’s rules will be considered “qualified” if: (1) it broadcasts at least the minimum number of hours required pursuant to 47 C.F.R. Part 73; (2) it adheres to Commission requirements regarding non-entertainment programming and employment practices, and the Commission determines that the programming of the LPTV station addresses local news and informational needs that are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station’s community of license; (3) it complies with interference regulations consistent with its secondary status; (4) it is located no more than 35 miles from the cable system’s headend and delivers to the principal headend an over-the-air signal of good quality; (5) the community of license of the station and the franchise area of the cable system were both located outside the largest 160 Metropolitan Statistical Areas (“MSAs”) on June 30, 1990, and the population of such community of

¹Formerly WKRP-LP.

²47 U.S.C. § 534(c)(1); 47 C.F.R. § 76.56(b)(3).

license on that date did not exceed 35,000; and (6) there is no full power television broadcast station licensed to any community within the county or other political subdivision (of a State) served by the cable system.³

III. DISCUSSION

3. In support of its complaint, Petitioners claim that WRTN-LD satisfies the requirements of Section 76.55(d) of the Commission's rules, and thus is a "qualified" LPTV station for purposes of the must carry rules.⁴ Petitioners state that WRTN-LD operates 24 hours a day, seven days a week, provides local news, weather and sports, and that these services are not provided by the nearby Nashville market.⁵ Petitioners also state that WRTN-LD is located 7.57 Km from Comcast's principal headend which serves the communities of Hartsville, Carthage and Lafayette.⁶ Moreover, Petitioners point out that Hartsville, Carthage and Lafayette are located in the counties of Trousdale, Smith and Macon, Tennessee, respectively, and that all three counties are outside of the Nashville MSA.⁷ Petitioners argue that they sent a letter to Comcast, demanding carriage on their digital channel WRTN-LD, because it carried the station's local news and sports for the requested communities.⁸ When Comcast's response was that they could not pick up the station's analog channel, Petitioners state that they sent a second letter on September 9, 2009, reiterating that they were requesting carriage of their digital channel, but, to date, have received no further response from Comcast.⁹ Petitioners therefore request that the Commission grant WRTN-LD must carry status in the subject communities.¹⁰

4. Comcast argues in opposition that WRTN-LD is not a "qualified" LPTV station for must carry purposes because of the fact that it is licensed to Nashville, Tennessee, and Nashville was ranked as the 40th largest MSA on June 30, 1990 and, therefore, was well within the largest 160 MSAs.¹¹ Moreover, Comcast states that the population of Nashville was greater than 488,000, well in excess of the required 35,000 threshold.¹² As a result, Comcast argues that WRTN-LD does not meet the requirements of a "qualified" LPTV under Section 534(h)(2)(E) of the Act and Section 76.55(d)(5) of the Commission's rules.¹³ Therefore, Comcast respectfully requests that the Commission dismiss WRTN-LD's complaint.

5. In reply, Petitioners state that on April 27, 2009, analog station WKRP-LP's call letters were changed to its digital companion channel, WRTN-LD.¹⁴ Petitioners argue that WKRP-LP and

³47 U.S.C. § 534(h)(2); 47 C.F.R. § 76.55(d).

⁴Complaint at 1.

⁵*Id.*

⁶*Id.*

⁷*Id.*

⁸*Id.*

⁹*Id.*

¹⁰*Id.* at 2.

¹¹Opposition at Exhibit 2.

¹²*Id.* at Exhibit 3.

¹³*Id.* at 3, citing 47 U.S.C. § 534(h)(2)(E); 47 C.F.R. § 76.55(d)(5).

¹⁴Reply at 1.

WRTN-LD are not two separate entities, but one station which is licensed to Alexandria, Tennessee.¹⁵ Petitioners admit that the station's CDBS did temporarily list the city of license for WRTN-LD as Nashville, Tennessee, but this error was corrected to reflect the proper city of license as Alexandria, Tennessee.¹⁶ Petitioners point out that Alexandria, Tennessee is outside the Nashville MSA and WRTN-LD is seeking carriage in communities that are also outside of the Nashville MSA, thus meeting the requirements of Section 76.55(d) of the Commission's rules.¹⁷ Petitioners state that, although they requested carriage of WRTN-LD on Comcast's cable system, Comcast has provided no information that it has tested WRTN-LD's digital signal to determine if it provides an adequate signal to Comcast's principal headend.¹⁸ In spite of this, Petitioners argue that WRTN-LD meets the requirements for must carry in this instance and Comcast should be ordered to commence carriage of its signal.¹⁹

6. We will grant WRTN-LD's must carry complaint. In the instant complaint, the only substantive objection raised by Comcast was its belief that WRTN-LD's city of license was Nashville, Tennessee. If true, WRTN-LD could not be considered as a "qualified" LPTV station entitled to carriage in the subject communities. However, it appears that the information relied upon by Comcast was incorrect and that WRTN-LD's city of license is Alexandria, Tennessee, and not Nashville. Because of this, we find that WRTN-LD is a "qualified" LPTV station entitled to must carry rights in the communities of Hartsville, Carthage and Lafayette, Tennessee. However, given the fact that Comcast has apparently not conducted a signal quality test of WRTN-LD's digital signal, this finding is subject to such a test demonstrating that WRTN-LD provides a good quality signal to Comcast's principal headend.

IV. ORDERING CLAUSES

7. Accordingly, **IT IS ORDERED**, that the complaint filed by Richard C. and Lisa A. Goetz, licensees of LPTV station WRTN-LD, Alexandria, Tennessee **IS GRANTED** pursuant to Section 614(h) of the Communications Act of 1934, as amended, 47 U.S.C. § 534(h).

¹⁵*Id.*

¹⁶*Id.* at Exhibit 1.

¹⁷*Id.* at 1-2

¹⁸*Id.* at 2.

¹⁹*Id.*

8. **IT IS FURTHER ORDERED** that Comcast Cable **SHALL COMMENCE CARRIAGE** of WRTN-LD's signal on its cable system serving the communities of Hartsville, Carthage and Lafayette, Tennessee, within 60 days unless Comcast demonstrates that WRTN-LD does not provide a good quality signal to its principal headend.

9. This action is taken pursuant to authority delegated by Section 0.283 of the Commission's rules.²⁰

FEDERAL COMMUNICATIONS COMMISSION

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²⁰47 C.F.R. § 0.283.